

UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF NEW YORK

ELAINE L. CHAO, Secretary of Labor,  
United States Department of Labor

Plaintiff,

v.

HONG KONG SUPERMARKET OF SOUTH  
PLAINFIELD, INC., a corporation, HONG KONG  
SUPERMARKET OF EAST BRUNSWICK, INC., a  
corporation

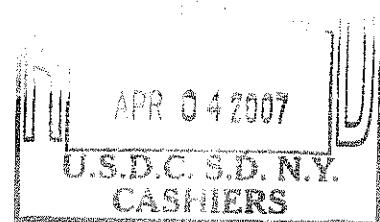
Defendants

: Civil Action

07 CV 2730

: C O M P L A I N T

JUDGE STEIN



Plaintiff, Elaine L. Chao, Secretary of Labor, United States Department of Labor, brings this action under Sections 16(c) and 17 of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. §201, *et seq.*), ("the Act"), alleging that defendants violated sections 7, 11(c), 15(a)(2), and 15(a)(5) of the Act.

I.

Jurisdiction of this action is conferred upon the Court by Section 17 of the Act and 28 U.S.C. Sections 1331 and 1345.

II.

Defendant Hong Kong Supermarket of South Plainfield, Inc. is a corporation duly organized under the laws of the State of New Jersey having its principal office at 109 East Broadway, New York, NY 10002 within the jurisdiction of this court, and its place of business at 3600 Park Avenue, South Plainfield, NJ 07080 where it is engaged as a supermarket specializing in the sale of Asian foods.

III.

Defendant Hong Kong Supermarket of East Brunswick, Inc. is a corporation duly organized under the laws of the State of New Jersey having its principal office at 109 East Broadway, New York, NY 10002 within the jurisdiction of this court and a place of business at 275 Route 18 South, East Brunswick NJ 08816 where it is engaged as a supermarket specializing in the sale of Asian foods.

IV.

Defendant corporations have regulated the employment of all persons employed by them, acted directly and indirectly in the corporations' interest in relation to their employees, and thus are employers of the employees within the meaning of section 3(d) of the Act.

V.

The business activities of the defendants are related and performed through unified operation or common control for a common business purpose and constitute an enterprise within the meaning of section 3(r) of the Act.

VI.

Defendants have employed employees at their places of business in the activities of the enterprise engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce. The enterprise has had an annual gross volume of sales made or business done in an amount not less than \$500,000. Therefore, the employees are employed in an enterprise engaged in commerce or in the production of goods for commerce within the meaning of section 3(s)(1)(A) of the Act.

VII.

Defendants, in many workweeks, willfully and repeatedly violated, the provisions of sections 7 and 15(a)(2) of the Act by employing many of their employees employed in an enterprise engaged in commerce or in the production of goods for commerce, for workweeks longer than those prescribed in section 7 of the Act without compensating the employees for their employment in excess of the prescribed hours at rates not less than one and one-half times the regular rates at which they were employed. Therefore, defendants are liable for unpaid overtime compensation and an equal amount in liquidated damages under section 16(c) of the Act, or, in the event liquidated damages are not awarded, unpaid overtime compensation and prejudgment interest on the unpaid overtime compensation under section 17 of the Act.

VIII.

Defendants willfully and repeatedly have violated the provisions of sections 11(c) and 15(a)(5) of the Act, in that defendants failed to make, keep, and preserve adequate and accurate records of their employees and of the wages, hours, and other conditions of employment which they maintained as prescribed by the Regulations issued and found at 29 CFR Part 516; more specifically, the records kept by the defendants failed to show adequately and accurately, among other things, the hours worked each workday, the total hours worked each workweek, the regular rate of pay, the basis upon which wages were paid, the total straight-time earnings for each workweek, and/or the total overtime compensation for each workweek, with respect to many of their employees.

IX.

Defendants since June 1, 2002 willfully and repeatedly have violated and are violating the provisions of the Act as alleged above.

WHEREFORE, cause having been shown, plaintiff prays for judgment against defendants providing the following relief:

- (1) For an injunction issued pursuant to section 17 of the Act permanently restraining defendants, their officers, agents, employees, and those persons in active concert or participation with defendant, from violating the provisions of sections 7, 11, 15(a)(2), and 15(a)(5) of the Act; and
- (2) For an order pursuant to section 16(c) of the Act finding defendants liable for unpaid overtime compensation found due defendants' employees listed on the attached Exhibit A and an equal amount of liquidated damages (additional unpaid overtime compensation and liquidated damages may be owed to certain employees presently unknown to plaintiff for the period covered by this Complaint); or,
- (3) in the event liquidated damages are not awarded, for an injunction issued pursuant to section 17 of the Act restraining defendants, their officers, agents, employees, and those persons in active concert or participation with defendants, from withholding the amount of unpaid overtime compensation found due defendants' employees and prejudgment interest computed at the underpayment rate established by the Secretary of Treasury pursuant to 26 U.S.C. §6621; and
- (4) For an order awarding plaintiff the costs of this action; and

(5) For an order granting such other and further relief as may be necessary and appropriate.

DATED: April 3, 2007  
New York, New York

/s/ Jonathan L. Snare

JONATHAN L. SNARE  
Acting Solicitor of Labor

/s/ Patricia M. Rodenhausen

PATRICIA M. RODENHAUSEN  
Regional Solicitor

/s/ Evan R. Barouh

EVAN R. BAROUH  
Senior Trial Attorney

U.S. Department of Labor  
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**EXHIBIT A**

**HONG KONG SUPERMARKET OF SOUTH PLAINFIELD, INC.**

Chen, Li Ping  
Chen, Zhuo Ming  
Escobar, Roman  
He, Rong Duo  
Hon, Kiong Chee  
Hong, Zhao Yuan  
Hu, Zuan Quan  
Jiang, Shu Wu  
Lau, Yuk Yee  
Lee, Fong  
Liang, Siew Chin  
Lin, Zhao Fang  
Liu, Wen Hui  
Low, Cheng Wan  
Mo, Wah Yung  
Mou, Yuk Yee  
Navarret, Fred Vargas  
Vuoug, Henry  
Woo, Kyon Pauk  
Woo, Wanda  
Wu, Qian Pan  
Wu, Wei Shan  
Yu, Mei Min  
Yu, Mei Min  
Zhang, Qing Liang

**HONG KONG SUPERMARKET OF EAST BRUNSWICK, INC.**

Cai, Jin Qiu  
Chan, Kwan Fan  
Chan, Mandy  
Chan, Pun Leung  
Chan, Wai Chung  
Chen, Cai Feng  
Chen, Dong Fang  
Cheong, Chong Kiew  
Dong, Qing  
Feng, Shao Guang  
Feng, Shu Jun  
Feng, Xiu Ge  
Guan, Zi Bin  
He, Bing Wu  
He, Rong Jian  
Hou, Lei  
Jian, Yin Xian  
Lam, Wing Kwong  
Lei, Fang Hua  
Li, Guo Ying  
Li, Jian Quan  
Liang, De Guang  
Liu, Xin Feng  
Sanchez, Jose Deluna  
Santiago, Juan Gomez  
Sidoa, Juana  
Then, Nyok Mooi  
Torres, Alberto  
Tran, Hue Bich  
Wen, Run Peng  
Wong, Kee Fah  
Woo, Kyon Pauk  
Wu, Zhuo N  
Xie, Nuan Jun  
Xu, Zhi Qing  
Yang, Chi Jin  
Zhang, Chun Yan  
Zhang, Rong Xin  
Zhang, Wu  
Zhao, Jia Xuan  
Zhunag, Lan Zhen